

By: Nelson, et al

S.B. No. 530

Substitute the following for S.B. No. 530:

By: Patrick

C.S.S.B. No. 530

A BILL TO BE ENTITLED

AN ACT

1
2 relating to physical activity requirements and physical fitness
3 assessment for certain public school students.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 28.002(1) and (1-1), Education Code,
6 are amended to read as follows:

7 (1) A school district shall [~~The State Board of Education,~~
8 ~~after consulting with educators, parents, and medical~~
9 ~~professionals, by rule may~~] require a student enrolled in
10 kindergarten or a grade level below grade six [~~nine~~] to participate
11 in moderate or vigorous daily physical activity for at least 30
12 minutes throughout the school year as part of the [~~a school~~]
13 district's physical education curriculum or through structured
14 activity during a school campus's daily recess[~~, except that the~~
15 ~~board may not require more than 30 minutes of daily physical~~
16 ~~activity~~]. A school district shall require students enrolled in
17 grade levels six, seven, and eight to participate in moderate or
18 vigorous daily physical activity for at least 30 minutes for at
19 least four semesters during those grade levels as part of the
20 district's physical education curriculum. If a school district
21 determines, for any particular grade level below grade six, that
22 requiring moderate or vigorous daily physical activity is
23 impractical due to scheduling concerns or other factors, the
24 district may as an alternative require a student in that grade level

1 to participate in moderate or vigorous physical activity for at
2 least 135 minutes during each school week [~~the board adopts rules~~
3 ~~under this subsection, the board must ensure by rule that students~~
4 ~~enrolled in middle and junior high school settings are allowed to~~
5 ~~meet the physical activity requirement by participating in physical~~
6 ~~activity twice each week throughout the school year or the option to~~
7 ~~schedule at least two semesters overall~~]. Additionally, a school
8 district may as an alternative require a student enrolled in a grade
9 level for which the district uses block scheduling to participate
10 in moderate or vigorous physical activity for at least 225 minutes
11 during each period of two school weeks. A school district [~~If the~~
12 ~~board adopts rules under this subsection, the board~~] must provide
13 for an exemption for:

14 (1) any student who is unable to participate in the
15 required [~~daily~~] physical activity because of illness or
16 disability; and

17 (2) a middle school or junior high school student who
18 participates in an extracurricular activity with a moderate or
19 vigorous physical activity component that is considered a
20 structured activity under rules adopted by the commissioner [~~State~~
21 ~~Board of Education~~].

22 (1-1) In adopting rules relating to an activity described by
23 Subsection (1)(2), the commissioner [~~State Board of Education~~] may
24 permit an exemption for a student who participates in a
25 school-related activity or an activity sponsored by a private
26 league or club only if the student provides proof of participation
27 in the activity.

1 SECTION 2. Section 28.004, Education Code, is amended by
2 amending Subsection (k) and adding Subsection (l) to read as
3 follows:

4 (k) A school district shall publish in the student handbook
5 and post on the district's Internet website, if the district has an
6 Internet website:

7 (1) a statement of the policies adopted to ensure that
8 elementary school, middle school, and junior high school students
9 engage in at least the amount and level [~~30 minutes per school day~~
10 ~~or 135 minutes per school week~~] of physical activity required by
11 Section 28.002(1); and

12 (2) a statement of:

13 (A) the number of times during the preceding year
14 the district's school health advisory council has met;

15 (B) whether the district has adopted and enforces
16 policies to ensure that district campuses comply with agency
17 vending machine and food service guidelines for restricting student
18 access to vending machines; and

19 (C) whether the district has adopted and enforces
20 policies and procedures that prescribe penalties for the use of
21 tobacco products by students and others on school campuses or at
22 school-sponsored or school-related activities.

23 (l) The local school health advisory council shall consider
24 and make policy recommendations to the district concerning the
25 importance of daily recess for elementary school students. The
26 council must consider research regarding unstructured and
27 undirected play, academic and social development, and the health

1 benefits of daily recess in making the recommendations. The
2 council shall ensure that local community values are reflected in
3 any policy recommendation made to the district under this
4 subsection.

5 SECTION 3. Chapter 38, Education Code, is amended by adding
6 Subchapter C to read as follows:

7 SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

8 Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided
9 by Subsection (b), a school district annually shall assess the
10 physical fitness of students enrolled in grades three through
11 eight.

12 (b) A school district is not required to assess a student
13 for whom, as a result of disability or other condition identified by
14 commissioner rule, the assessment instrument adopted under Section
15 38.103 is inappropriate.

16 Sec. 38.102. PARENTAL NOTIFICATION. A school district
17 shall provide the results of a student's physical fitness
18 assessment under this subchapter to the student's parent or
19 guardian, accompanied by an explanation of the results.

20 Sec. 38.103. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The
21 commissioner by rule shall adopt an assessment instrument to be
22 used by a school district in assessing student physical fitness
23 under this subchapter.

24 (b) The assessment instrument must:

25 (1) be based on factors related to student health,
26 including the following factors that have been identified as
27 essential to overall health and function:

- 1 (A) aerobic capacity;
2 (B) body composition; and
3 (C) muscular strength, endurance, and
4 flexibility; and

5 (2) include criterion-referenced standards specific
6 to a student's age and gender and based on the physical fitness
7 level required for good health.

8 Sec. 38.104. REPORTING OF SUMMARY RESULTS. (a) A school
9 district shall compile the results of the physical fitness
10 assessment required by this subchapter and provide summary results,
11 aggregated by grade level and any other appropriate category
12 identified by commissioner rule, to the agency. The summary
13 results may not contain the names of individual students or
14 teachers.

15 (b) The results of individual student performance on the
16 physical fitness assessment instrument are confidential and may be
17 released only in accordance with state and federal law.

18 Sec. 38.105. ANALYSIS OF RESULTS. (a) The agency shall
19 analyze the results received by the agency under this subchapter
20 and identify, for each school district, any correlation between the
21 results and the following:

- 22 (1) student academic achievement levels;
23 (2) student attendance levels;
24 (3) student obesity;
25 (4) student disciplinary problems; and
26 (5) school meal programs.

27 (b) The agency may contract with a public or private entity

1 for that entity to conduct all or part of the analysis required by
2 Subsection (a).

3 (c) Not later than September 1 of each year, the agency
4 shall report the findings of the analysis under this section of the
5 results obtained during the preceding school year to the School
6 Health Advisory Committee established under Section 1001.0711,
7 Health and Safety Code, for use by the committee in:

8 (1) assessing the effectiveness of coordinated health
9 programs provided by school districts in accordance with Section
10 38.014; and

11 (2) developing recommendations for modifications to
12 coordinated health program requirements or related curriculum.

13 Sec. 38.106. DONATIONS. The agency and each school
14 district may accept donations made to facilitate implementation of
15 this subchapter.

16 Sec. 38.107. RULES. The commissioner shall adopt rules
17 necessary to implement this subchapter.

18 SECTION 4. Not later than September 1, 2008, the Texas
19 Education Agency, in consultation with the School Health Advisory
20 Committee established under Section 1001.0711, Health and Safety
21 Code, shall provide a report to the legislature that details
22 options and recommendations for providing moderate or vigorous
23 daily physical activity for students for at least 30 minutes
24 outside the seven-hour instructional day. The options and
25 recommendations must be developed with consideration for the needs
26 of students who are enrolled in multiple enrichment curriculum
27 courses.

1 SECTION 5. The commissioner of education shall adopt the
2 physical fitness assessment instrument required under Subchapter
3 C, Chapter 38, Education Code, as added by this Act, and rules
4 necessary to implement that subchapter not later than the date that
5 enables the instrument to be used by school districts during the
6 2007-2008 school year.

7 SECTION 6. Notwithstanding Section 11, Chapter 784, Acts of
8 the 79th Legislature, Regular Session, 2005, Section 38.014,
9 Education Code, as amended by that Act, applies beginning with the
10 2007-2008 school year.

11 SECTION 7. Section 28.002(1), Education Code, as amended by
12 this Act, applies to students enrolled in kindergarten or a grade
13 level below grade six beginning with the 2007-2008 school year and
14 to students enrolled in grade levels six, seven, and eight
15 beginning with the 2008-2009 school year.

16 SECTION 8. Except as otherwise provided by this Act, this
17 Act applies beginning with the 2007-2008 school year. This Act
18 shall apply to junior high or middle schools only upon adoption of a
19 coordinated school health program for these grades by the Texas
20 Education Agency.

21 SECTION 9. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2007.